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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,910	02/08/2005	Hubert Verelst	081276-1042-00	9448
23409 7590 01/23/2009 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/523,910

**Applicant(s)**

VERELST ET AL.

**Examiner**

Gary K. Graham

**Art Unit**

3727

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 2-5, 8, 10-13, 15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 9, 16, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 20080731
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claims 9 and 16 are objected to because of the following informalities: In claim 9, line 23, it appears “tough” should be ---trough---. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 3, reference to “the handle” appears indefinite since multiple handles have been set forth. Which one is being referenced?

In claims 18 and 19, line 1, it appears “18” and “19” should be ---17--- and ---18---, respectively. This is how the claims have been treated with respect to prior art. It is noted that claims cannot depend from themselves.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5, 8, 10-13, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egner-Walter et al (German patent 3709810) in view of De Paoli et al (US patent 6,305,066) and Maiocco (US patent 4,308,635).

The patent to Egner-Walter discloses the invention substantially as is claimed, including a wiper lever (figs.1,2) having a driven wiper arm (12) supporting a wiper blade (1). The wiper blade includes a band-like, elastic support element (10) supporting a rubber wiper strip (19,21). A coupling element (31) is provided on an upper surface of the support element and includes a shaft (32) to which an adapter (33) is coupled to provide a means of securing the arm (12) to the blade (1). A coupling piece at the end of the wiper arm (12) is coupled to the adapter in what appears as a conventional releasable manner via the adapter. An elastic, plastic cap (36) covers the articulated connection and is locked to the supporting element of the wiper blade via bead (37). Note that the cap accommodates the entire adapter (33) and has a passage through which the wiper arm (12) passes.

The patent to Egner-Walter discloses all of the above recited subject matter with the exception of the supporting element being curved along its length, and the securing means moveable in an actuation direction generally parallel to the width of the wiper strip wherein the securing means includes first and second projections adapted to engage first and second recesses in the wiper arm.

The patent to De Paoli discloses a wiper lever (fig.1) comprised of a wiper arm (18) supporting a wiper blade (10). De Paoli discloses curving the support element (12) of the wiper blade (10) such that proper contact of the wiper strip (14), supported by the supporting element, with the window occurs.

It would have been obvious to one of skill in the art to curve the supporting element of Egner-Walter, as clearly suggested by De Paoli, to ensure proper windshield contact by the wiper strip. Curving of supporting strips is well known.

The patent to Maiocco discloses a conventional connection between a wiper arm (56) with a coupling piece (58), with tubular portion, and wiper blade (48). The connection employs a plastic adapter (11) detachably connected with the coupling piece (58) of the arm and with a shaft (54) of the wiper blade. The adapter includes first and second projections (28) on handles (24) which engage in recesses within tubular portion (60) in the coupling piece. Actuation of the handles is in a direction generally parallel to a width direction of the wiper strip of the wiper blade.

It would have been obvious to one of skill in the art to employ an adapter for Egner-Walter which has projections movable in a direction generally parallel to the width of the blade, as clearly suggested by Maiocco, to enable coupling of a wiper arm with a tubular portion to the wiper blade. It appears a mere substitution of one adapter for another to enable different arms to be coupled to the blade.

With respect to claims 17 and 20, the flexible nature of the cap (36) of Egner-Walter is considered to permit actuation of the securing means, at least as far as defined. Note that the cap does not prevent actuation of the handle of the adapter.

With respect to claim 3, the projections are considered to be locking means that form the securing means.

With respect to claim 4, the cap of Egner-Walter is considered to be "trough-like", at least as far as such defines any particular structure. Note that the cap of Egner-Walter has numerous edges, all facing the supporting element. Also note that the wiper arm (12) passes through the cap at the penetration opening. It appears the handle of the modified Egner-Walter lever will project toward a longitudinal trough wall, at least to some degree and as far as defined.

With respect to claims 5, 8 and 10, note recesses and ridges in portion (38) of the elastic cap which are considered to be "allocated" to the handle, at least as far as defined. Further, such act as a support that extends towards the handle.

With respect to claim 11, the functional language does not act to distinguish from that which is suggested by the Maiocco adapter. Note that with sufficient initial outward deflection of the handles, release of the connection between arm and blade would still be possible even with some movement of the handles towards one another .

With respect to claim 13, note limit stops (27) on the supporting element. The beads (37) are considered as counter limit stops and are considered "allocated" to the limit stops, at least as far as defined.

#### ***Allowable Subject Matter***

Claims 6 and 7 are allowed.

Claims 9 and 16 would be allowable if amended to overcome the minor objection thereto.

Claims 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 17 and 20 have been considered but are moot in view of the new ground(s) of rejection. As set forth above, Maiocco teaches an adapter as is claimed. Further, as set forth above, such can readily be employed with Egner-Walter to enable coupling of a wiper arm with a tubular portion to the wiper blade.

Applicant's arguments with respect to the rejection of claims 4 and 15 are noted but not persuasive. The modified Egner-Walter lever will have a "handle" (24) that projects towards a wall of the cap.

Applicant's arguments with respect to the rejection of claim 5 are noted but not persuasive. As set forth above, the recesses of portion (38) are considered as "allocated" to the handle, at least as far as defined.

Applicant's arguments with respect to the rejection of claim 8 is noted but not persuasive. As set forth above, as the cap of Egner-Walter is elastic-plastic, it will have an area that can yield that is near or adjacent the handle. Nothing would prevent such yielding.

Applicant's arguments with respect to the rejection of claim 10 is noted but not persuasive. As set forth above, ridges in portion (38) of the elastic cap appear as a support which is considered to be "allocated" to the handle, at least as far as defined. Further, such act as a support that extends towards the handle.



Applicant's arguments with respect to the rejection of claim 11 is noted but not persuasive. The functional language does not act to distinguish from that which is suggested by the Maiocco adapter. Note that with sufficient initial outward deflection of the handles, release of the connection between arm and blade would still be possible even with some movement of the handles towards one another.

Applicant's argument with respect to new claims 21 and 22 are noted and persuasive. These claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/  
Primary Examiner, Art Unit 3727